

REMARKS

Claims 1-9 are now pending, with claims 1, 4 and 9 being the independent claims. Claims 1-8 have been amended. Claim 9 has been added. The amendments to the claims are to correct minor claim wording, and are cosmetic in nature. No new matter has been added. Reconsideration of the application, as amended, is respectfully requested.

The Examiner has failed to indicate Applicant's claim for priority or that the U.S. Patent Office has received the priority documents. A notice indicating Applicant's claim for priority and that the priority documents were received is requested.

In the Office Action dated April 17, 2006, independent claims 1 and 4, and dependent claims 2, 3 and 5-8 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,493,610 ("*Suzuki*") in view of U.S. Patent No. 5,367,523 ("*Chang*"). For the following reasons, Applicant respectfully asserts that all claims of the present application are patentable over the cited references.

The claimed invention is directed to the use of the congestion indication (or load indication) that is available from flow information, such as from real time control protocol (RCTP) reports, to adaptively control a modem and/or codec transfer rate (see pg. 6, lines 28-32 of the originally filed specification). Here, the transfer rate is controlled such that it is reduced when congestion is present and packets are lost during transmission. When no congestion is present and all transmitted packets are safely received, then the transfer rate is increased (see pg. 6, line 33 thru pg. 7, line 2 of the originally filed specification).

Suzuki discloses a circuit multiplex transmission system in which speech/facsimile signals are transmitted. *Suzuki* (Abstract) teaches that the transmission rate of data is controlled by a transmission circuit allocation unit based on the load of the transmission circuit. In addition, *Suzuki* (Fig. 1) teaches a speech encoder/decoder 7 and 13, as well as a fax modem 5. *Suzuki* (col. 6, lines 1-12) describes the transmission circuit. *Suzuki* (col. 10, lines 61-65) states "[the] system is characterized by the facsimile procedure operating unit for operating the facsimile procedure for facsimile transmission to control the base band data transmission rate of the facsimile signals according to the status of a load of the transmission circuit".

However, amended claims 1 and 4 recite that the network is a packet network. That is, the "transmission circuit" described in *Suzuki* is a circuit-switched network, and not a packet network. Thus, *Suzuki* fails to teach or suggest the claimed invention as recited in amended

independent claims 1 and 4. As described in detail in the background section of the present application, the claimed invention is directed to providing solutions to problems that occur in VoIP, i.e., real-time applications in a packet network. *Suzuki* has nothing to do with this claimed subject matter. *Suzuki* thus fails to teach amended independent claims 1 and 4, since the transmission technology disclosed therein is completely different than the subject matter encompassed by independent claims 1 and 4.

The Examiner acknowledges (Office Action pg. 3) that *Suzuki* differs from the claimed invention in that *Suzuki* fails to teach or suggest adjusting the transmission rate according to the priority, as recited in dependent claims. *Chang* has been cited by the Examiner to cure this deficiency of *Suzuki*. *Chang* relates to mechanisms for implementing end-to-end, closed loop, distributed control (see col. 1, lines 9-11). *Chang* (Abstract) teaches adaptive rate-based congestion and flow control in packet communications networks. *Chang* (col. 2, lines 53-64, and col. 8, lines 3-24) teaches that a data rate is varied with respect to a congestion status. *Chang* (col. 6, lines 21-60) also teaches the use of different priority levels (see, specifically, lines 35-48). However, the structure disclosed in *Chang* (see Fig. 1) fails to provide a plurality of transmission units, as recited in amended independent claims 1 and 4. Rather, *Chang* merely teaches that only "the" rate is varied. Consequently, *Chang* teaches that each node only has one transmission unit. It is therefore impossible for *Chang* to teach or suggest that different priorities for different transmission units are set, as recited in amended independent claims 1 and 4. Moreover, a person having the ordinary level of skill would not seek to combine the system disclosed in *Suzuki* with the system described in *Chang*, because each patent describes different systems that are based on differing technologies. As a result, the deficiency of *Suzuki* still remains. In view of the foregoing, independent claims 1 and 4 are patentable, reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are in order, and a notice to that effect is earnestly solicited.

New independent claim 9 is directed to a device associated with the method of independent claim 1 and the device of independent claim 4. Therefore, independent claim 9 is patentable over *Suzuki* in combination with *Chang* for the reasons discussed above with respect to independent claims 1 and 4.

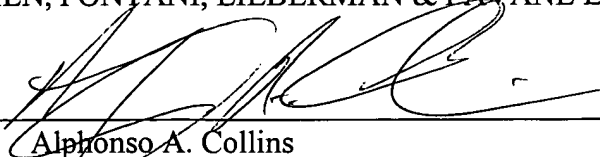
In view of the patentability of independent claims 1, 4 and 9, for the reasons set forth above, dependent claims 2, 3 and 5-8 are all patentable over the prior art.

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN, PONTANI, LIEBERMAN & PAVANE LLP

By



Alphonso A. Collins

Reg. No. 43,559

551 Fifth Avenue, Suite 1210

New York, New York 10176

(212) 687-2770

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